

**WRITTEN TESTIMONY FOR LITTLE HOOVER COMMISSION
PUBLIC HEARING ON ACUPUNCTURE - AUGUST 28, 2003
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**QUESTION ONE: PLEASE DESCRIBE THE EVOLUTION OF ACUPUNCTURE
IN ASIA AND WESTERN COUNTRIES.**

THE BEGINNINGS

Since the origin of Acupuncture and Chinese medicine in China some 4000 years ago, the most important developments in the evolution of Acupuncture has occurred in China, with notable contributions from Japan and Korea in more modern times. When the oldest known books on Acupuncture and Chinese medicine were written possibly over 2,000 years ago, they had already presented a fully matured and sophisticated healthcare system. Incredibly, many of these writings can still be utilized today as textbooks. Another of the oldest books, written in 282, had already fully described 649 of the 670 acupoints generally accepted today, as well as presenting a comprehensive description of physiology, pathology, diagnosis and therapy in acupuncture and Chinese medicine.

EXPORTED TO NEIGHBORING COUNTRIES

Chinese medicine and Acupuncture was exported to neighboring countries of Korea and Japan in the 6th century or earlier, and possibly to Viet Nam as early as the 2nd century BC. Colleges teaching acupuncture, moxibustion, and herbal medicine were founded in Korea in 692, and in Japan in 702, which established acupuncture and moxibustion as accepted systems of healing in those countries.

FIRST CONTACTS WITH THE WEST

Contact with the west began in the 13th century during the reign of Mongol rulers, Ghengis and Kublai Khan, who expanded their empire across the continent from China to the eastern borders of Europe, making travel easier. Early travelers and missionaries returning from China in the 15th century, were the first to introduce Acupuncture and Chinese medicine to Europe. During the 16th century, European countries, such as Portugal, started to expand trade and began to establish settlements in Asia, bringing along Western medicine, which was relatively primitive at that time.

PERIODS OF DEVELOPMENT

The following years through the early 19th century were generally periods of growth, prosperity, and intellectual diversity in China, which was mirrored by similar trends in the evolution Acupuncture, moxibustion, and Chinese medicine.

THE DECLINE OF CHINA

The latter half of the 19th century began the gradual social, economic, and political decline in China. Western countries worked aggressively to expand trade in Asia, especially in China. A series of devastating events occurred: the Opium trade and the resulting Opium War (1839-1842), the Tai Ping Rebellion (1850-1864); the Sino Japanese War (1894); the Boxer Rebellion (1899-1900); and the unequal treaties China was forced to sign with the European powers. Famines and epidemics, along with the wars and rebellions, resulted in the deaths of tens of millions of Chinese.

CHALLENGED BY WESTERN MEDICINE

During this period, Acupuncture and Chinese medicine was also challenged by Western medicine, which gained increasing influence under the sponsorship of the European powers. Chinese medicine was helpless against the spread of epidemics and infectious disease during this period, while Western medicine received credit for the recent biomedical advances in germ theory, sepsis, antibiotics, and anesthetics. .

CHINA'S GOVERNMENT TRIES TO MODERNIZE

In 1912, the last emperor of China abdicated which led to the formation of the new Chinese Republic, which announced in 1914 and again in 1926, it's intention to abolish traditional Chinese medicine. The Chinese government had apparently had set a priority to modernize China, which included the replacement of traditional Chinese medicine with modern Western medicine. However, the government did not succeed in abolishing Chinese medicine because of the integral part it played in the life and health of the Chinese population. Then came the 1937 Japanese invasion of China, World War II, and finally, the Chinese Revolution in 1949.

MODERN CHINA'S SUPPORT OF ACUPUNCTURE & TCM

As the leaders of the Chinese Revolution took control, they were confronted with what the United Nations Relief Organization called 'the greatest and most intractable public health problem of any nation in the world.' Rather than try to replace traditional Chinese medicine with Western medicine, as the previous government tried to do, China's new leaders decided to integrate both traditional Chinese medicine and Western medicine into China's health care system. In 1956, China established 5 colleges of traditional Chinese medicine (Beijing, Guangzhou, Chendu, Shanghai, and Nanjing), that taught a standardized curriculum consisting of acupuncture, traditional pharmacotherapy, and basic biomedical sciences. Western medical colleges also included Chinese medicine in the curriculum. In 1958, came the official proclamation: "Chinese medicine is a great treasure house! We must make all efforts to uncover it and raise its standards," followed in the 70's by the government's stated goal to elevate traditional Chinese medicine "to the plane of modern science." In the 80's, the "three roads" policy instituted 3 parallel tracts of medical study: traditional Chinese medicine, Western medicine, and an integrative combined program of thorough training in both traditional Chinese medicine and modern Western medicine.

MODEL OF INTEGRATION

Today, China has become the model of integration of Western medicine and traditional Chinese medicine into the healthcare system, where Western medical doctors and traditional Chinese doctors practice side-by-side in the same hospitals with equal status, and working together, intercommunicating, cross-referring and routinely doing joint

consultations and collaborative care. Today, the original 5 Colleges of Traditional Chinese Medicine has grown to a total of 26 Universities and Colleges.

EVOLUTION IN OTHER ASIAN COUNTRIES

During much of the first half of the 20th century, acupuncture and traditional Chinese medicine also declined throughout Asia, but like China, also made a remarkable recovery during the second half of the 20th century. Due to the influence of Western physicians in Japan, the practice of acupuncture was also eliminated initially during the American occupation after World War II. However, popular mass protests led to its reinstatement, with the condition that standardized curriculum and licensure would be established. In 1948, acupuncture, moxibustion, and massage became 3 separately licensed disciplines. During the 20-year period prior to the 70's while China remained closed to most Western countries, Japan became a major source of acupuncture information to other parts of the world, and made notable contributions to the modern practice of acupuncture.

In South Korea, traditional Chinese medicine's recovery has been so remarkable that today, it is more difficult to get accepted into a 'Doctor of Oriental Medicine' degree program than it is to a Western medical program. Although herbal therapy is the dominant therapy in Korea, acupuncture and moxibustion is also popular.

In general, the trend in China, Korea, and Japan, as well as in Vietnam and Taiwan is the incorporation of the study of biomedicine within the traditional Chinese medicine curriculum. There is also a trend, with China as the model, of integrating traditional Chinese medicine, along side of Western medicine into the healthcare system, leading towards a system where both groups of practitioners can work together to the benefit of the patient.

EVOLUTION IN WESTERN COUNTRIES

Although acupuncture and Chinese medicine was introduced into Europe by the 15th century, its spread was not significant until the publication of several books on Acupuncture from 1939 to 1955 by a Frenchman who had spent 16 years in China. Today, acupuncture is practiced throughout Europe, especially popular in France and Germany. Historically, European acupuncture styles had a slightly greater influence on the East coast of United States, while the West coast had a greater influence from Asia, particularly China.

EVOLUTION IN THE U.S.

Limited use of Acupuncture in the United States probably began in the 19th century with the immigration of Chinese laborers, and subsequent formation of immigrant Asian communities. The use of acupuncture by non-Asians was probably virtually nonexistent until the 1970's. The major expansion and spread of Acupuncture began in 1971, after President Nixon's trip to China and after reporter James Reston's article appeared in the New York Times about how acupuncture had relieved his post-surgical pain after an emergency appendectomy while in China. These 2 events created great public interest and within a few years, training programs, research studies on acupuncture anesthesia, and acupuncture clinics began to emerge, as well as legislation regulating the practice of acupuncture. Within a decade after President Nixon's trip to China, over 10 states had passed licensing legislation. Today, 39 states plus District of Columbia have licensure legislation that regulates the practice of acupuncture.

QUESTION TWO: HOW DOES ACUPUNCTURE WORK?

A SCIENTIFIC EXPLANATION

Inserting a fine sterilized needle in the human body causes minute local tissue trauma, which provokes a complex defensive response. This involves tissue reactions and differential neural control of the small blood vessels surrounding the area around the needle. High threshold sensory nerves are activated which sends nociceptive (pain) and proprioceptive (sensory) signals to the spinal cord and the central nervous system. Certain regions of the brain are then subsequently activated that sends restorative descending control signals down to the level of where the needle is inserted. These descending neural signals inhibit pain, eliminate muscle tension, normalize blood flow, and restore the functional balance of the internal organs. Meanwhile, the tissue reactions provoked by needling improve blood flow, promote tissue healing, and strengthen the immune response. The ancient Chinese discovered that acupoints are distributed along the pathway of key blood vessels and related nerves of the body. It was their genius that they recognized that judicious use of certain acupoints could bring about directed restorative responses that were effective in treating a wide range of diseases including pain, musculoskeletal conditions, internal organ problems, and almost every disease affecting the human population.

With the current rising costs of conventional health care, the side-effects of medications, and unsatisfactory results in the treatment of chronic and degenerative disease, consumers can greatly benefit from acupuncture and Chinese medicine, which is less toxic, less side-effects, more cost-effective, and most useful for chronic and degenerative conditions.

AN ALLEGORICAL EXPLANATION

The following allegory may not be as scientific but provides a simple insight: “The needle, in piercing the body’s surface has penetrated the physical boundaries of the body, and not unlike the invasion of a strange aircraft across a country’s sovereign borders or airspace, the piercing needle will sound alarms and trigger certain cellular defensive activities, just as the invading aircraft would alert and trigger activity from the nation’s law enforcement and defense communities.”

HOW CONSUMERS BENEFIT

The reason that consumers can benefit from access to acupuncture treatments is the fact that the proper use of needling by a skilled practitioner activates restorative processes within the patient’s body that no pharmaceutical or other means can produce, including surgery. Patients that typically seek acupuncture have conditions for which no other treatment has been successful in resolving their problem. In fact the conditions of some patients have been made worse by the treatments they previously received. Although the needling produces insignificant trauma to the body, the restorative action is profound because the tissue reactions amplifies and sustains the response including continuous neural stimulation until restorative descending processes occur. All this happens without the patient feeling any pain or discomfort. Each treatment usually brings about some normalization of the patient’s condition and so a series of treatments are often needed to totally resolve the presenting problem.

METHODS OF STIMULATION

Acupoints are specific locations on the body's surface, when stimulated, will produce an alteration of body function that is desirable, such as reduction of pain, activating the body's healing ability, reduction of swelling, or other healthful or health maintaining benefit. This effect is produced by viscerosomatic, neurologic, immunologic, vascular, and other systemic relationships between the surface of the body and those systems directly or indirectly through a vast network of interconnections and communications.

Acupoints may be stimulated by different methods, with or without needles. The most common method is the use of fine, sterilized needles that are inserted into acupoints. The most common non-needle methods include moxibustion, cupping, and oriental massage. The method used depends on the patient's specific complaint, the degree of stimulation desired and overall body condition.

Moxibustion involves the burning of a specially processed herb attached to the needle, or held close to the skin to produce heat at the acupoint. Cupping involves using a cup to create a suction force on the surface of the skin to create a local vasodilation and mechanical effect on the underlying tissue. The suction is created either by a pumping device or by burning the air inside cup and quickly placing it over the skin. Oriental massage involves a variety of techniques of manually or with manual instruments to stimulate acupoints and underlying tissue.

IMPORTANCE OF DIAGNOSIS FOR BEST OUTCOME

It is important to emphasize that the effective practice of acupuncture is not just the stimulation of different acupoints for different ailments. For the best results, the acupuncturist must also diagnose the patient's underlying general condition, as well as the underlying cause of the patient's chief complaints. The diagnostic process is the most important part of the acupuncture treatment because similar symptoms may be due to different underlying causes or conditions, and may require totally different set of acupoints. The most appropriate method of stimulation and the most effective acupoints can only be selected based on the correct diagnosis. The right combination of acupoints, with the proper type and strength of stimulation, can have the most profound effect on restoring and maintaining health.

SUMMARY OF SOME OF THE RESEARCH ON ACUPUNCTURE:

RESEARCH ON ACUPOINTS:

- Greater density of nerve endings existing in acupoint areas, with greater probability of a nerve-blood vessel "bundle" located near the acupoint.
- Acupoints have "low-resistance" or "high-conductance" electrical properties that is markedly different from surrounding non-acupoint sites.

BLOOD FLOW AND ANTI-INFLAMMATORY REGULATION:

- release of neurotransmitters from nerve endings
- inhibits local release of histamines (from mast cells)
- inhibits release prostaglandins (from nerve membranes)
- reduce chronic inflammation by the release ACTH that increase synthesis and release of anti-inflammatory adrenocortical steroids

CARDIOVASCULAR HOMEOSTATIC EFFECT:

- normalizes heart rate and blood pressure (reduces if too high, increases if too low)

GASTROINTESTINAL HOMEOSTATIC EFFECT:

- reduces gastric secretions when over-secreting; increases gastric secretions when under-secreting
- increases intestinal peristalsis
- reduces intestinal peristalsis when it is experimentally accelerated by drugs

IMMUNOLOGICAL FUNCTION:

- Enhances immune response by increasing white blood cell levels, macrophage phagocytic activity, T-cell proliferation, and natural killer cell cytotoxic activity.
- Enhances competency of B cells to produce antibodies
- Normalizes abnormally increased or decreased immune activity

CORTICAL ACTIVATION BY ACUPUNCTURE STIMULATION

- Functional MRIs (fMRI), show changes in blood oxygenation in specific regions of the brain when stimulating certain body acupoints traditionally related to the specific function of that part of the brain.
- Nonpoint locations did not stimulate useful fMRI images

ACTIVATION OF FEEDBACK MECHANISMS

- The research findings that indicate a homeostatic effect suggests that acupuncture may activate a feedback mechanism that monitors and regulates physiological processes

CONDITIONS THAT CAN BE EFFECTIVELY TREATED BY ACUPUNCTURE

CONSENSUS DEVELOPMENT CONFERENCE PANEL (1998)	
Substantial evidence for the efficacy of acupuncture in the following 4 conditions:	<ul style="list-style-type: none"> • Postoperative nausea and vomiting • Chemotherapy-associated nausea and vomiting • Pregnancy-associated nausea and vomiting • Postoperative dental pain
Other conditions for which evidence of effectiveness is good but require further substantiation:	<ul style="list-style-type: none"> • Headache • Low-back pain • Fibromyalgia • Myofascial pain • Tennis elbow • Osteoarthritis • Carpal tunnel syndrome • Postoperative pain • Addictions • Stroke rehabilitation • Menstrual cramps • Asthma

SOURCE: Annon 1998 NIH Consensus development panel on acupuncture. JAMA 280(17):1518-1524

WHO List of Disorders & Conditions for Which Acupuncture is Effective (1979)	
Upper Respiratory	<ul style="list-style-type: none"> • Acute sinusitis • Acute rhinitis • Common cold • Acute tonsillitis
Respiratory	<ul style="list-style-type: none"> • Acute bronchitis • Bronchial asthma (most effective in children and patients without complicating diseases)
Eye	<ul style="list-style-type: none"> • Acute conjunctivitis • Central retinitis • Myopia (in children) • Cataract (without complications)
Mouth	<ul style="list-style-type: none"> • Spasms of esophagus and cardia • Hiccough • Gastroparesis • Acute and chronic gastritis • Gastric hyperacidity • Chronic duodenal ulcer (pain relief) • Acute duodenal ulcer (without complications) • Acute and chronic colitis • Acute bacillary dysentery • Constipation • Diarrhea • Paralytic ileus
Neurological & Musculoskeletal	<ul style="list-style-type: none"> • Headache • Migraine • Trigeminal neuralgia • Facial palsy (early stage, within 3-6 months) • Paresis following a stroke • Peripheral neuropathies • Sequellae of poliomyelitis (early stage, within 6 months) • Meniere's disease • Neurogenic bladder dysfunction • Nocturnal enuresis • Intercostal neuralgia • Cervicobrachial syndrome • "Frozen shoulder" • "Tennis elbow" • Sciatica • Low-back pain • Osteoarthritis

Source:

World Health Organization 1980 Use of acupuncture in modern health care. *WHO Chronicle* 34:294-301

COMPOSITE LIST OF CONDITIONS TREATED BY ACUPUNCTURE THAT SHOW PROMISING RESULTS IN PUBLISHED CLINICAL TRIALS	
Chronic Pain	<ul style="list-style-type: none"> • Low back pain • Neck pain • Facial pain (including temporomandibular disorder) • Headaches, including migraines • Joint pain, including tennis elbow, carpal tunnel syndrome, knee pain, and also including arthritis, especially osteoarthritis • Fibromyalgia • Myofascial pain • Reflex sympathetic dystrophy
Acute Pain (postoperative dental pain)	<ul style="list-style-type: none"> • Dental pain • Postsurgical pain • Pain of colonoscopy, endoscopy
Substance Abuse	<ul style="list-style-type: none"> • Alcoholism • Cocaine dependence • Crack dependence • Heroin dependence
Anti-emesis	<ul style="list-style-type: none"> • Nausea & vomiting from cancer chemotherapy • Nausea & vomiting postoperatively • Nausea & vomiting of morning sickness • Motion-induced nausea and vomiting
Respiratory	<ul style="list-style-type: none"> • Asthma • Breathlessness • Exercise-induced asthma symptoms
Neurological	<ul style="list-style-type: none"> • Sequellae of stroke • Paralysis • Hand paresis • Palsy • Parkinson's disease
Urological	<ul style="list-style-type: none"> • Urgent, frequent urination • Kidney-stone pain • Bladder instability
Gynecological & Obstetric	<ul style="list-style-type: none"> • Menstrual pain • Induction of labor • Pain of labor • Reduce time of labor • Breech presentation • Menopausal hot flashes • Hormonal irregularity
Gastroenterological	<ul style="list-style-type: none"> • Gallstones • Diarrhea • Dry mouth
Psychological	<ul style="list-style-type: none"> • Depression

Sources:

- 1) **Consensus Development Conference:** Annon 1998 NIH Consensus development panel on acupuncture. JAMA 280(17):1518-1524
- 2) **US Food and Drug Administration 1994:**
 - Special supplement: Journal of Alternative and Complementary Medicine 1996, 2(1)
- 3) **Acupuncture Efficacy, a summation of the peer-reviewed literature and from conferences in Germany:**
 - Birch S, Hammerschlag R 1996 Acupuncture efficacy. National Academy of Acupuncture of Oriental Medicine, New York

QUESTION THREE: HOW DIFFERENT ARE THE METHODS OF ACUPUNCTURE IN ASIA AND OTHER REGIONS OF THE WORLD IN COMPARISON TO CALIFORNIA?

The methods and techniques of acupuncture practiced in California do not differ significantly from those of Asian countries. This is because the major influence on the development and practice of acupuncture in Asia and California has been China. In modern times, China has continued to play a dominant leadership role by integrating Acupuncture and Chinese medicine into the modern healthcare system, restructuring its educational system, and emphasizing research.

In China, there are only 3 types of physician licensing, the medical doctor, the doctor of Chinese medicine, and a dual-trained doctor with thorough training in both Western medicine and traditional Chinese medicine.

Currently, the western medical curriculum has 10% Chinese medicine training and 90% Western medical training. The Chinese medicine curriculum has 30% western medical training and 70% traditional Chinese medicine. Currently, the dual-trained doctor is a Western-trained doctor that goes through a 1-3 year full-time study of traditional Chinese medicine. Most dual-trained doctors will be involved in some aspect of research or work in a small hospital or facility in a small town where the doctor will provide both Western medical and traditional Chinese medical services. The dual-trained doctors only represent a very small percentage of the doctors in China, but is increasing.

The Similarities in Scope of Practice

The California's Acupuncture scope of practice is very similar to the practice of acupuncture by doctors of Chinese medicine in modern China. All the major treatment modalities such as acupuncture, electroacupuncture, cupping, moxibustion, and massage are the same, including the practice of herbal medicine. The ordering of diagnostic imaging (such as x-ray, CTScan, and MRI studies) and blood and other laboratory tests are also similarly allowed in the US as is in China. However, there is a major difference in California, because ordering of such tests by a LAc is usually not covered by private insurance or public healthcare programs. The only modalities or procedures allowed in China but not allowed in California are bone-setting, point-injection therapy, herbal intravenous therapy, and a not-commonly used acupuncture technique that involves making a small incision on the skin. Interestingly, in the U.S., there are currently 7 states that allow point-injection therapy, 3 of which also allow intravenous therapy, with legislation pending in several more states, but not California.

The most significant difference in SOP is that the acupuncturist in China is allowed to write prescriptions for western medications. Likewise, some western medicine doctors also prescribe patent Chinese medicines for specific conditions. It is noteworthy that in China, most western medications (except for controlled substances) can currently be purchased over-the-counter without a prescription. In California, the Licensed Acupuncturist is not authorized to prescribe western drugs and there is no movement to secure that right.

The Major Difference: Practice in China

In contrast to the similarities in the SOP, there are very important differences in the structure of the healthcare system in which acupuncture is practiced. Generally, California Acupuncturists, upon licensing, are dropped into the isolation of private practice. China's Chinese medicine graduates, are hired by Chinese medicine hospitals, where the new doctor, continue to refine their knowledge and skills, working with other more experienced doctors, and spending 1-2 years rotating through all the different departments in the hospital. The doctor will also rotate between the inpatient and outpatient facilities at the hospital. Many doctors are also sent to other hospitals for 6 months to 1 year of specialized training.

In China, there are 2 types of hospitals, western medicine hospitals and Chinese medicine hospitals, forming a network of government-supported, local/city and larger state hospitals. All western medicine hospitals have a Chinese medicine department and all Chinese medicine hospitals also have western doctors. The western and the Chinese medicine doctors work together, with equal status and pay, in the same hospitals, cross-referring patients, doing joint-consultations on difficult cases.

Chinese and western medicine are stand-alone medical systems that complement each other. Patients have equal access and equal coverage to both Western and Chinese medicine because both are fully integrated into China's healthcare system.

Doctors may also do a "combined program" of full training in both western and Chinese medicine. This program requires Western medicine doctors to complete an additional 1-3 years of full-time study in Chinese medicine. This small but growing number of "dual-trained" doctors (14,000 in 2001), is considered the "cutting edge" for true integration of Western and Chinese medicine in China. Many of these dual-trained doctors do research, while others are assigned to hospitals or facilities in small towns, where they practice a combination of both Western and traditional Chinese medicine.

QUESTION FOUR: HOW DOES THE ROLE, SCOPE OF PRACTICE AND STATUS VARY BETWEEN CALIFORNIA AND OTHER REGIONS?

SCOPE OF PRACTICE IN CALIFORNIA

The Acupuncture Licensure Act, Section 4927, authorizes the Licensed Acupuncturist to treat patients using **Acupuncture**, which is defined as the stimulation of "points" on the body's surface (acupoints) by inserting needles into those "points". Included in the definition of "acupuncture" are the other procedures of **electroacupuncture**, **cupping**, and **moxibustion**, also authorized for stimulating acupoints.

Section 4937 authorizes licensed acupuncturists to also "prescribe and perform" the following modalities:

- oriental massage and acupressure
- breathing techniques
- exercise
- heat and cold
- magnets
- nutrition, diet, & dietary supplements
- herbs & plant, animal, and mineral products

Section 4926 states that the legislative intent is to establish a “framework” for the **practice of “oriental medicine through acupuncture”**. It also states that it is the legislative intent to regulate acupuncture practice as a “**primary health care profession**”.

California’s SOP can be generalized into 4 main categories of service to patients:

- 1) Treatment modalities and procedures for the stimulation of acupoints
- 2) Other treatment modalities, not necessarily related to acupoint stimulation
- 3) Nutritional and dietary counseling and therapies
- 4) Chinese herbal therapy

TOTAL NUMBERS OF ACUPUNCTURISTS:

COMPARING CALIFORNIA WITH OTHER JURISDICTIONS

Of the 51 jurisdictions (the 50 states plus District of Columbia) in the United States, 40 jurisdictions regulate the practice of Acupuncture and Oriental medicine by licensure, certification or registration, while 11 states do not.

The following statistics are based on data collected in a recent survey of state regulatory agencies, conducted by the California Acupuncture Board in July, 2003.

- There are a total of 20,750 acupuncturists in the United States.
- California has the greatest number of acupuncturists at 7,922, while the other 39 jurisdictions (38 states + D.C.) have a total of 12,828 acupuncturists.
- California has 38% of all the acupuncturists in the U.S., but has 379% more acupuncturists than the 2nd highest state, New York, which has 2089 acupuncturists.
- California has more LACs as than the 7 states with the next highest number of LACs combined.
- There are 15 states with 100 or less acupuncturists and 7 states with less than 50.
- The lowest number of licensees is Louisiana with 15 acupuncturists.

COMPARING CALIFORNIA SOP WITH OTHER JURISDICTIONS

All 40 jurisdictions allow the practice of Acupuncture utilizing needles. Of the other main procedures, electroacupuncture, cupping, and moxibustion in California’s SOP, a review of the 40 acupuncture practice legislations show that:

- only 9 jurisdictions (22.5%) explicitly include electroacupuncture in their SOP,
- only 21 jurisdictions (52.5%) explicitly include moxibustion their SOP
- only 7 jurisdictions (17.5%) explicitly include cupping in their SOP.

However, it is likely that these 3 procedures may be allowed in the SOP as implied from the explicit inclusion of other related modalities or procedures within their practice acts. For example, electroacupuncture may be implied by the allowed use of “electrical modalities”, “TENS” (Transcutaneous electrical nerve stimulation), “electrical stimulation”, etc., and may subsequently be included by regulatory clarification. Please see the following 2 tables comparing California’s SOP with other states.

SCOPE OF PRACTICE	EXPLICIT IN THE LEGISLATION		IMPLIED IN THE LEGISLATION		TOTAL OF EXPLICIT & IMPLIED	
	Number Of States	% of States	Number Of States	% of States	Total # of States	Total %
Acupuncture	40	100%	NA	NA	40	100%
Electro-acupuncture	9	22.5%	22 (TENS, electrical, electrostim, etc)	55%	31	77.5%
Moxibustion	21	52.5%	14 (heat, thermal)	35%	35	87.5%
Cupping	7	17.5%	11 (mechanical stimulation)	27.5%	18	45%

<u>OTHER MODALITIES WITHIN CALIFORNIA'S SOP</u>	INCLUDED WITHIN SOP (# of States)	% of STATES
Massage, oriental massage, (including acupressure, shiatsu, tui na, Manual therapies, etc)	25	62.5%
Breathing Techniques	5	12.5%
Exercise	16	40%
Heat	28	70%
Cold	2	5%
Magnet, Electromagnetic	13	32.5%
Nutrition, Diet	20	50%
Herbs	19	47.5%
Plant products	1	2.5%
Animal Products	1	2.5%
Mineral Products	3	7.5%
Dietary/Nutritional Supplements	4	10%

HERBAL THERAPY

One of the most important part of California's acupuncture SOP is the use of herbs, including plant, animal and mineral products. The addition of herbal therapy to the SOP greatly enhances the results of acupuncture treatment and allows the acupuncturist to treat a wider and more comprehensive range of health conditions than possible with acupuncture only. Herbs may be used as an adjunct to acupuncture or as stand-alone treatment. This is a great benefit for California's consumers to have access to Chinese herbal therapy.

Note that California is only 1 of 19 states that authorize the use of herbal therapies within the SOP. Those 19 states represent 47.5% of the 40 total jurisdictions, but comprising a total of 71% of all the acupuncturists in the U.S. Of all the acupuncturists authorized to use herbal therapy, California's acupuncturists make up 54% of the total number.

INDEPENDENT PRACTICE

California is 1 of 29 jurisdictions allowed to practice independently, without prior referral, diagnosis, or supervision. These 29 states can provide the first-level of healthcare services to any patient, with any condition, who seeks care. These

“Independent” practitioners are essentially the “portal-of-entry” into the healthcare system, and must have adequate training and skills to identify and diagnose which patients or conditions can be appropriately treated within their SOP, and which should be referred to more appropriate practitioners.

In 11 jurisdictions, acupuncturists cannot treat patients without a prior referral, diagnosis or supervision by another primary health care provider, such as a medical doctor, chiropractor, or osteopath.

- 4 jurisdictions require some form of supervision either within the premises or indirectly.
- 1 jurisdiction requires a written authorization.
- 5 jurisdictions require a referral and/or prior diagnosis.
- 1 jurisdiction requires a referral for organic disorders.

The 29 states with “independent” practice in their SOP represent 73% of the 40 jurisdictions, and make up 88% of the total 20,750 acupuncturists in the United States currently. California licensed acupuncturists make up 44% of all the “independent” practitioners (7,922 out of 17,941).

PRIMARY HEALTH CARE

In California, acupuncture is also a “primary health care profession” . There are only 4 states (California, New Mexico, Florida, West Virginia), where acupuncturists are “primary care providers” (PCP). Like the practitioners who can practice without a referral or diagnosis, the PCP is also a “portal-of-entry” into the healthcare system. However, as PCP, there are other implicit responsibilities, in addition to providing the first level of health care for the patients. These additional duties include providing diagnostic and treatment services, initiating referrals to other health care professionals when appropriate, and maintaining the continuity of care, which can be provided only within the acupuncture SOP.

The 4 states that are PCPs are only 10% of the 40 regulated states. The 4 PCP states have a total of 9,913 acupuncturists, which is 46% of the total 20,750 licensed acupuncturists in the US. However, of the total 9,913 PCPs, California’s 7,922 acupuncturists make up 80%.

DIAGNOSIS

Note that the definition of PCP includes the providing of “diagnostic services”. Since there is no mention of “diagnosis” in the Practice Act, an issue has been raised as to whether or not diagnosis is authorized within the SOP.

A review of the legislative history shows that under the former section 2155, established by SB86 in 1975, acupuncturists can provide treatment only with a prior diagnosis or referral by a licensed physician, podiatrist, chiropractor, or dentist. However, this requirement was repealed in 1979 by AB1391, authorizing acupuncturists to practice independently without a prior diagnosis or referral. Regarding this issue, Scope of Practice Legal Opinion No. 93-11 from the Department of Consumer Affairs stated, “...logic compels us to conclude that the Legislature in repealing former section 2155 has authorized acupuncturists to diagnose a patient’s condition prior to providing any treatment.” It is only logical that before providing treatment, a practitioner must first determine (diagnose) what is wrong with the patient.

LAB TESTS & X-RAYS

Related to the issue of diagnosis is whether acupuncturists are authorized to order laboratory tests and x-rays. Legal Opinion No. 93-11 states that having concluded that a “licensed acupuncturist is legally authorized to diagnose a patient’s condition prior to treatment”, that the use of x-rays, and blood and laboratory tests as “tools” to “either assist... the making of a diagnosis or corroborate or monitor a treatment plan” would “be consistent with the scope of practice.”

ROLE OF LICENSED ACUPUNCTURIST IN CALIFORNIA

There is an increasing trend of consumers seeking alternative or complementary treatment for their health needs. Many are seeking less toxic, less invasive, less costly and more holistic and natural approaches. Many are seeking alternative care because of conventional medicine’s limitations in dealing with chronic and degenerative conditions.

Licensed Acupuncturists in California have an important role to play in meeting those growing consumer needs and demands. Acupuncture is a more cost effective, less invasive, more natural approach to the treatment and prevention of disease. There is virtually no toxicity or side-effects. Additionally, it views health from a holistic perspective and is more concerned about identifying and eliminating the cause of a condition, rather than just the symptoms.

The most important role that the LAC plays in California’s health care system is that of being a “primary care provider” (PCP). In our state, there are only 4 independent PCPs: medical doctors, osteopaths, chiropractors, and acupuncturists. PCPs are very important because they provide the first level of care for patients and are the only portal of entry through which a healthcare consumer can enter into the health care system. In addition to the responsibilities involved with direct patient care, the PCP also have an important role in coordinating the utilization of other health care resources or providers.

LACs are intimately involved in the treatment of the patient, providing not only the diagnosis, but also providing the ongoing acupuncture treatments and periodic reevaluation and adjustment of herbal prescriptions, which allows more frequent monitoring of the patient’s condition. Medical doctors and osteopaths, in contrast, are typically not involved with face-to-face treatments, and have limited contact with the patient after making the diagnosis.

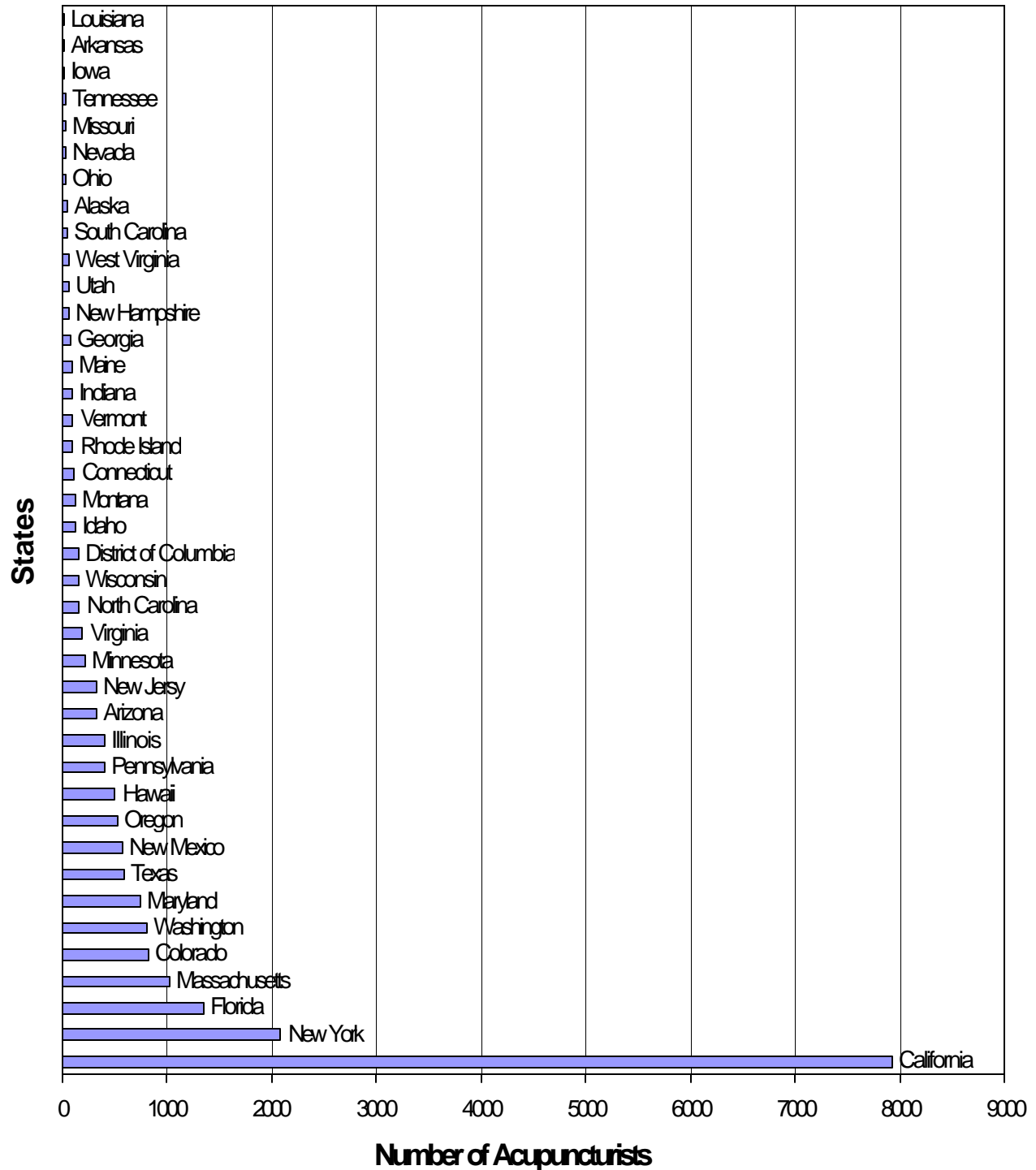
LACs also play an important role in the Worker’s Compensation system of California, where LACs are designated as “physicians”, allowed to treat injured workers, and can be appointed as Qualified Medical Evaluators (QME) to provide evaluations in cases where there are disputed issues.

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Comparison of Number of Acupuncturists in Different States

Chart compiled by Richard G. Fong, DC, LAC, based on survey of licensing agencies conducted by the Calif. Acupuncture Board in July, 2003. Presented at the Little Hoover Commission 8/28/03.



Note: 11 states have no licensing or regulation of Acupuncture: Wyoming, South Dakota, Oklahoma, North Dakota, Nebraska, Mississippi, Michigan, Kentucky, Kansas, Delaware, Alabama

	JURISDICTIONS	# OF LACs	COMMENTS	
1	California	7,922	Calif. has 38% of LACs in the U.S.	
2	New York	2,089	Calif. - 379% more LACs than N.Y., the 2 nd highest state	Calif. Has more LACs than the next 7 highest States combined
3	Florida	1,357		
4	Massachusetts	1,035		
5	Colorado	826		
6	Washington	805		
7	Maryland	750		
8	Texas	600		
9	New Mexico	574		
10	Oregon	528		
11	Hawaii	507		
12	Pennsylvania	406		
13	Illinois	404		
14	Arizona	335		
15	New Jersey	328		
16	Minnesota	222		
17	Virginia	200		24 States have 200 or less LACs
18	North Carolina	169		
19	Wisconsin	166		
20	District of Columbia	157		
21	Idaho	125		
22	Montana	123		
23	Connecticut	120		
24	Rhode Island	108		
25	Vermont	108		
26	Indiana	100	15 States have 100 or less LACs	
27	Maine	95		
28	Georgia	83		
29	New Hampshire	72		
30	Utah	67		
31	West Virginia	60		
32	South Carolina	53		
33	Alaska	52		
34	Ohio	39		7 States have less than 50 LACs
35	Nevada	38		
36	Missouri	37		
37	Tennessee	32		
38	Iowa	26		
39	Arkansas	17		
40	Louisiana	15		
41	Alabama	0	11 States have no acupuncture practice acts. * Kansas & Michigan have no practice act But acupuncturists may practice Under Medical Supervision This chart was compiled by Richard G. Fong, DC, LAC, based on a survey of state licensing agencies conducted by the California Acupuncture Board in July, 2003. Presented at the Little Hoover Commission Hearing on Acupuncture, August 28, 2003.	
42	Delaware	0		
43	Kansas *	0		
44	Kentucky	0		
45	Michigan *	0		
46	Mississippi	0		
47	Nebraska	0		
48	North Dakota	0		
49	Oklahoma	0		
50	South Dakota	0		
51	Wyoming	0		
	TOTAL # OF LACs	20,750		

COMPARISON OF ACUPUNCTURE PRACTICE IN CALIF. & OTHER STATES

	CALIF.	YES (# OF STATES)	NO (# OF STATES)
Acupuncture Practice regulated by State Statutes (50 States + D.C.)	Yes	40 (39 States + D.C.)	11
Herbs in SOP	Yes	19	21
Dietary/Nutritional Therapy or supplementation	Yes	21	18
Independent Practice (without Referral, Prior Diagnosis or Supervision by a Physician, etc)	Yes	29	11
Primary Care Provider	Yes	4	36
"Dr." or "Physician" Title upon Licensing	No	5 (AR, FL, NV, NM, RI)	35
Mandated 3 rd Party / Insurance Reimbursement	Yes (Parity)	8 (4 with Parity)	31
Mandated Workers Compensation Reimbursement	Yes	5	34
Homeopathy in SOP	No	5	17
Point Injection	No	7 (NM, FL, AK, WV, CO, MT, WA)	33
Intervenous Therapy	No	3 (NM, AR, WV)	37
Veterinary Acupuncture in SOP	No	3	21

This Chart was compiled by Richard G. Fong, LAC, DC, QME, CCN, DACBN primarily from Acupuncture and Oriental Medicine Laws (2001 Edition), by Barbara B. Mitchell, and other more current sources.
Presented at the Little Hoover Commission of Acupuncture, August 28, 2003.

	Number & Percentage of States allowed That SOP or Status		Number & Percentage of LACs in U.S. Allowed that SOP or Status		California LACs
	# of States	% of States	Total # of LACs	% of Total LACs	Calif's % of the Total LACs in U.S. allowed that SOP or Status
Herbal Therapy	19	47.5%	14,694	70.8%	53.9% OF LACs
Independent Practice	29	73%	17,941	86.4%	44.2% OF LACs
Primary Care Provider	4	10%	9,913	47.8%	79.9%
					OF LACs
Mandated 3rd Party & Insurance Reimbursement	8 (4 "Parity")	20%	10,928	52.7%	72.5% OF LACs
Mandated Workers Compensation Reimbursement	5	12.5%	8,671	41.8%	91.4% OF LACs

This Chart was compiled by Richard G. Fong, LAC, DC, QME, CCN, DACBN, primarily from Acupuncture and Oriental Medicine Laws (2001 Edition), by Barbara B. Mitchell, and other more current sources. Presented at the Little Hoover Commission of Acupuncture, August 28, 2003.

EVOLUTION OF ACUPUNCTURE SCOPE OF PRACTICE IN CALIF <small>Rev. 9-21-03</small>	
1972 AB1500	<ul style="list-style-type: none"> • practice of acupuncture only <u>under supervision</u> of a licensed physician • as part of <u>acupuncture research</u> associated with a medical school.
1975 SB86	<ul style="list-style-type: none"> • Licensed acupuncturists to practice acupuncture only <u>with prior diagnosis or referral</u> by licensed physician, chiropractor or dentist.
1979 AB1391	<ul style="list-style-type: none"> • <u>eliminated prior diagnosis or referral</u> requirement • <u>5-year monitoring period by the legislature</u>: Division of Allied Health Professions required to submit annual reports to the legislature describing complaints received, disciplinary actions taken, and prosecutions by the division involving the practice of acupuncture by licensed acupuncturists.
1980 AB 3040	<ul style="list-style-type: none"> • <u>expanded SOP</u> to include: <ul style="list-style-type: none"> - electroacupuncture, cupping, moxibustion • <u>Clarified</u> following also within SOP <ul style="list-style-type: none"> - Oriental massage - Breathing technique & exercise - Nutrition - use of drugless substances and herbs as dietary supplements • acupuncture designated as a <u>"primary health care profession"</u>
1987 SB1544	<ul style="list-style-type: none"> • Authorized to <u>"perform or prescribe"</u> the modalities in the SOP
1993 Legal Opinion 93-11	<ul style="list-style-type: none"> • Legal Opinion 93-11 from Acup Board's legal counsel • <u>Clarified SOP</u>; affirmed right to <u>diagnose</u>, and <u>order x-rays, blood and lab tests</u>;
2002 SB341	<ul style="list-style-type: none"> • SOP expanded to include: <ul style="list-style-type: none"> - Magnet, heat & cold; - "promote, maintain, and restore health" <u>Current SOP</u>: • acupuncture (including electroacupuncture, moxibustion, and cupping) • "perform or prescribe": <ul style="list-style-type: none"> - oriental massage & acupressure - breathing techniques & exercise - heat & cold - magnets - nutrition & diet - herbs - plant, animal, & mineral products - to "promote, maintain, and restore health"
2002 SB1943	Curriculum hours for licensing changed from 2,348 to 3000 hours effective 2005.